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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,409	10/14/2003	Shigehiko Kokubo	P1254US	6843
1218	7590	04/07/2006	EXAMINER	
CASELLA & HESPOS 274 MADISON AVENUE NEW YORK, NY 10016			NGO, LIEN M	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/686,409	<b>Applicant(s)</b> KOKUBO, SHIGEHICO	
	<b>Examiner</b> LIEN TM NGO	<b>Art Unit</b> 3754	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13, 15-17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-5, 11-13, 15-17 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Krieps et al. (3,209,963). Krieps et al. disclose, in fig. 2, a container B comprising neck portion, a cap 48 couple with a lid 12 via a hinge, a nozzle 22 comprising a discharge hole to be hermitically sealed by an inner top portion of a cap; a flange portion 34 spaced from the top end of the nozzle and configured to be in contact with the top of the neck portion (see 3); a ring-shaped projection 32 formed an upper portion of the nozzle and hermitically brought into contact with the inner surface of the cap; a constricted portion formed below the ring-shaped projection; and a fin 30, whose edges are hermetically brought into contact with an inner surface of a neck portion.

2. Claims 1-5, 15, 16, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Allegretti et al. (5,002). Krieps et al. disclose, in fig a container comprising neck portion 8, a cap 14, a nozzle comprising a discharge hole to be hermitically sealed by an inner top portion of a cap; a ring-shaped projection 5 formed an upper portion of the nozzle and hermitically brought into contact with the inner surface of the cap; a constricted portion formed below the ring-shaped projection; and a flange portion 6

spaced from the top end of the nozzle and configured to be in contact with the top of the neck portion.

***Claim Rejections - 35 USC § 103***

2. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krieps et al. in view of Poore et al. (4,782,964). Krieps et al. do not disclose the nozzle at least two fins.

Poore et al. teach, in fig. 2, a nozzle of a cap comprising at least two fins.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the nozzle in the Krieps et al.

invention with at least two fins, as taught by Poore et al., in order to enhance the sealing of the cap.

3. Claims 1-10, 15-17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faurie (2004/74925) in view of Krieps et al.

Faurie discloses, a container comprising a container, a cap and a nozzle substantially as claimed, except Faurie does not disclose a ring-shaped projection formed an upper portion of the nozzle and hermitically brought into contact with the inner surface of the cap.

Krieps teach a nozzle having a ring-shaped projection 32 formed an upper portion of the nozzle and hermitically brought into contact with the inner surface of the cap.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Faurie nozzle with a ring-shaped

projection formed an upper portion of the nozzle and hermitically brought into contact with the inner surface of the cap, as taught by Kriepps, in order to enhance the sealing between the cap and the nozzle.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-13, 15-17 and 19-21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-

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4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL MAR can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LIEN TM NGO  
Primary Examiner  
Art Unit 3754

March 31, 2006

